

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2055

Introduced by Assembly Member De La Torre

February 18, 2010

An act to amend ~~Section 1256~~ Sections 1030, 1032, 1256, 3701, and 4701 of the Unemployment Insurance Code, relating to unemployment insurance, and making an ~~appropriations~~ appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as amended, De La Torre. Unemployment insurance: benefits: eligibility: *reserve accounts*: domestic partners.

Existing law provides for the payment of unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law specifies that an individual is disqualified from receiving benefits if the Director of Employment Development finds that he or she left his or her most recent work voluntarily without cause or that he or she has been discharged for misconduct connected with his or her most recent work. Under existing law, an individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse or domestic partner to a place from which it is impracticable to commute to the employment, and specifies that, for purposes of those provisions, "spouse" includes a person to whom marriage is imminent.

Existing law authorizes any employer who is entitled to receive specified notice of an unemployment claim to, within 10 days after mailing of the notice, submit to the Employment Development Department specified facts disclosing whether the claimant for benefits left the employer's employ voluntarily and with good cause under certain

circumstances. Existing law provides that if a claimant left under specified circumstances, including, among others, if he or she left the employer's employ to accompany his or her spouse or domestic partner to a place from which it is impracticable to commute to the employment, the benefits paid to the claimant are not charged to the employer's reserve account, as specified.

This bill would specify that, for purposes of those provisions governing eligibility for benefits *and employer's reserve accounts*, "domestic partner" also includes a person to whom domestic partnership, as described, is imminent. Because the bill would provide for additional amounts payable for unemployment benefits from the Unemployment Fund, a continuously appropriated fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1030 of the Unemployment Insurance
2 Code is amended to read:
3 1030. (a) Any employer who is entitled under Section 1327
4 to receive notice of the filing of a new or additional claim may,
5 within 10 days after mailing of the notice, submit to the department
6 any facts within its possession disclosing whether the claimant left
7 the employer's employ voluntarily and without good cause or left
8 under one of the following circumstances:
9 (1) The claimant was discharged from the employment for
10 misconduct connected with his or her work.
11 (2) The claimant's discharge or quitting from his or her most
12 recent employer was the result of an irresistible compulsion to use
13 or consume intoxicants including alcoholic beverages.
14 (3) The claimant was a student employed on a temporary basis
15 and whose employment began within, and ended with his or her
16 leaving to return to school at the close of, his or her vacation
17 period.
18 (4) The claimant left the employer's employ to accompany his
19 or her spouse or domestic partner to *a place* or to join ~~her~~ or him
20 or *her* at a place from which it is impractical to commute to the
21 employment, *and* to which a transfer of the claimant by the
22 employer is not available.

1 (5) The claimant left the employer's employ to protect his or
2 her children or himself or herself from domestic violence abuse.

3 The period during which the employer may submit these facts
4 may be extended by the director for good cause.

5 (b) Any base period employer that is not entitled under Section
6 1327 to receive notice of the filing of a new or additional claim
7 and is entitled under Section 1329 to receive notice of computation
8 may, within 15 days after mailing of the notice of computation,
9 submit to the department any facts within its possession disclosing
10 whether the claimant left the employer's employ voluntarily and
11 without good cause or left under one of the following
12 circumstances:

13 (1) The claimant was discharged from the employment for
14 misconduct connected with his or her work.

15 (2) The claimant was a student employed on a temporary basis
16 and whose employment began within, and ended with his or her
17 leaving to return to school at the close of, his or her vacation
18 period.

19 (3) The claimant left the employer's employ to accompany his
20 or her spouse or domestic partner to *a place* or join ~~her or him or~~
21 *her* at a place from which it is impractical to commute to the
22 employment, *and* to which a transfer of the claimant by the
23 employer is not available.

24 (4) The claimant left the employer's employ to protect his or
25 her children or himself or herself from domestic violence abuse.

26 The period during which the employer may submit these facts
27 may be extended by the director for good cause.

28 (c) The department shall consider these facts together with any
29 information in its possession. If the employer is entitled to a ruling
30 under subdivision (b) or to a determination under Section 1328,
31 the department shall promptly notify the employer of its ruling as
32 to the cause of the termination of the claimant's employment. The
33 employer may appeal from a ruling or reconsidered ruling to an
34 administrative law judge within 20 days after mailing or personal
35 service of notice of the ruling or reconsidered ruling. The 20-day
36 period may be extended for good cause, which includes, but is not
37 limited to, mistake, inadvertence, surprise, or excusable neglect.
38 The director is an interested party to any appeal. The department
39 may for good cause reconsider any ruling or reconsidered ruling
40 within either five days after the date an appeal to an administrative

1 law judge is filed or, if no appeal is filed, within 20 days after
2 mailing or personal service of notice of the ruling or reconsidered
3 ruling. However, a ruling or reconsidered ruling that relates to a
4 determination that is reconsidered pursuant to subdivision (a) of
5 Section 1332 may also be reconsidered by the department within
6 the time provided for reconsideration of that determination.

7 (d) For purposes of this section only, if the claimant voluntarily
8 leaves the employer's employ without notification to the employer
9 of the reasons for the leaving, and if the employer submits all of
10 the facts within its possession concerning the leaving within the
11 applicable time period referred to in this section, the leaving is
12 presumed to be without good cause.

13 (e) An individual whose employment is terminated under the
14 compulsory retirement provisions of a collective bargaining
15 agreement to which the employer is a party shall not be deemed
16 to have voluntarily left his or her employment without good cause.

17 (f) *For purposes of this section "spouse" includes a person to*
18 *whom marriage is imminent, and "domestic partner" includes a*
19 *person to whom a domestic partnership, as described in Section*
20 *297 of the Family Code, is imminent.*

21 *SEC. 2. Section 1032 of the Unemployment Insurance Code is*
22 *amended to read:*

23 1032. If it is ruled under Section 1030 or 1328 that the claimant
24 left the employer's employ voluntarily and without good cause,
25 or left under one of the following circumstances, benefits paid to
26 the claimant subsequent to the termination of employment that are
27 based upon wages earned from the employer prior to the date of
28 the termination of employment shall not be charged to the account
29 of the employer, except as provided by Section 1026, unless the
30 employer failed to furnish the information specified in Section
31 1030 within the time limit prescribed in that section or unless that
32 ruling is reversed by a reconsidered ruling:

33 (a) The claimant was discharged by reason of misconduct
34 connected with his or her work.

35 (b) The claimant was a student employed on a temporary basis
36 and whose employment began within, and ended with his or her
37 leaving to return to school at the close of, his or her vacation
38 period.

39 (c) The claimant left the employer's employ to accompany his
40 or her spouse or domestic partner to *a place* or *to join her or him*

1 *or her* at a place from which it is impractical to commute to the
2 employment, *and* to which a transfer of the claimant by the
3 employer is not available.

4 (d) The claimant left the employer's employ to protect his or
5 her children or himself or herself from domestic violence abuse.

6 (e) The claimant left the employer's employ to take a
7 substantially better job.

8 (f) The claimant's discharge or quitting from his or her most
9 recent employer was the result of an irresistible compulsion to use
10 or consume intoxicants including alcoholic beverages.

11 ~~For purposes of this section and Section 1030 "spouse" includes~~
12 ~~a person to whom marriage is imminent.~~

13 (g) *For purposes of this section "spouse" includes a person to*
14 *whom marriage is imminent, and "domestic partner" includes a*
15 *person to whom a domestic partnership, as described in Section*
16 *297 of the Family Code, is imminent.*

17 **SECTION 1.**

18 **SEC. 3.** Section 1256 of the Unemployment Insurance Code
19 is amended to read:

20 1256. An individual is disqualified for unemployment
21 compensation benefits if the director finds that he or she left his
22 or her most recent work voluntarily without good cause or that he
23 or she has been discharged for misconduct connected with his or
24 her most recent work.

25 An individual is presumed to have been discharged for reasons
26 other than misconduct in connection with his or her work and not
27 to have voluntarily left his or her work without good cause unless
28 his or her employer has given written notice to the contrary to the
29 department as provided in Section 1327, setting forth facts
30 sufficient to overcome the presumption. The presumption provided
31 by this section is rebuttable.

32 An individual whose employment is terminated under the
33 compulsory retirement provisions of a collective bargaining
34 agreement to which the employer is a party, shall not be deemed
35 to have left his or her work without good cause.

36 An individual may be deemed to have left his or her most recent
37 work with good cause if he or she leaves employment to
38 accompany his or her spouse or domestic partner to a place *or to*
39 *join him or her at a place* from which it is impractical to commute
40 to the employment. For purposes of this section "spouse" includes

1 a person to whom marriage is imminent, and “domestic partner”
2 includes a person to whom a domestic partnership, as described
3 in Section 297 of the Family Code, is imminent.

4 An individual may be deemed to have left his or her most recent
5 work with good cause if he or she leaves employment to protect
6 his or her children, or himself or herself, from domestic violence
7 abuse.

8 An individual shall be deemed to have left his or her most recent
9 work with good cause if he or she elects to be laid off in place of
10 an employee with less seniority pursuant to a provision in a
11 collective bargaining agreement that provides that an employee
12 with more seniority may elect to be laid off in place of an employee
13 with less seniority when the employer has decided to lay off
14 employees.

15 *SEC. 4. Section 3701 of the Unemployment Insurance Code is*
16 *amended to read:*

17 3701. (a) (1) Any employer who is entitled under Section
18 3654 to notice of the filing of a primary claim or additional claim
19 and who, within 10 days after mailing of the notice, submits to the
20 department any facts within its possession disclosing whether the
21 exhaustee left the most recent employment with the employer
22 voluntarily and without good cause or was discharged from the
23 employment for misconduct connected with his or her work, or
24 whether the claimant was a student employed on a temporary basis
25 and whose employment began within, and ended with his or her
26 leaving to return to school at the close of, his or her vacation
27 period, or whether the claimant left the employer’s employ to
28 accompany his or her spouse *or domestic partner* to a place or
29 join ~~her or~~ him *or her* at a place from which it is impractical to
30 commute to the employment, *and* to which a transfer of the
31 claimant by the employer is not available or whether the claimant’s
32 discharge or quit from his or her most recent employer was the
33 result of an irresistible compulsion to use or consume intoxicants
34 including alcoholic beverages, shall be entitled to a ruling as
35 prescribed by this section. The period during which the employer
36 may submit these facts may be extended by the director for good
37 cause.

38 (2) For purposes of this section, “spouse” includes a person to
39 whom marriage is imminent, *and “domestic partner” includes a*

1 *person to whom a domestic partnership, as described in Section*
2 *297 of the Family Code, is imminent.*

3 (b) The department shall consider these facts together with any
4 information in its possession. If the employer is entitled to a
5 determination pursuant to Section 3655, the department shall
6 promptly notify the employer of its ruling as to the cause of the
7 termination of the exhaustee's most recent employment. The
8 employer may appeal from a ruling or reconsidered ruling to an
9 administrative law judge within 20 days after mailing or personal
10 service of notice of the ruling or reconsidered ruling. The 20-day
11 period may be extended for good cause, which shall include, but
12 not be limited to, mistake, inadvertence, surprise, or excusable
13 neglect. The director shall be an interested party to any appeal.
14 The department may for good cause reconsider any ruling or
15 reconsidered ruling within either five days after the date an appeal
16 to an administrative law judge is filed or, if no appeal is filed,
17 within 20 days after mailing or personal service of notice of the
18 ruling or reconsidered ruling, except that any ruling or reconsidered
19 ruling which related to a determination is reconsidered pursuant
20 to subdivision (a) of Section 1332 may also be reconsidered by
21 the department within the time provided for reconsideration of that
22 determination.

23 (c) For purposes of this section only, if the claimant voluntarily
24 leaves the employer's employ without notification to the employer
25 of the reasons therefor, and if the employer submits all of the facts
26 within its possession concerning the leaving within the applicable
27 time period referred to in this section, the leaving shall be presumed
28 to be without good cause.

29 (d) An individual whose employment is terminated under the
30 compulsory retirement provisions of a collective-bargaining
31 agreement to which the employer is a party shall not be deemed
32 to have voluntarily left his or her employment without good cause.

33 (e) Rulings under this section shall have the effect prescribed
34 by Section 1032.

35 *SEC. 5. Section 4701 of the Unemployment Insurance Code is*
36 *amended to read:*

37 4701. (a) (1) Any employer who is entitled under Section
38 4654 to notice of the filing of an application or additional claim
39 and who, within 10 days after mailing of the notice, submits to the
40 department any facts within its possession disclosing whether the

1 individual left the most recent employment with the employer
2 voluntarily and without good cause or was discharged from the
3 employment for misconduct connected with his or her work, or
4 whether the claimant was a student employed on a temporary basis
5 and whose employment began within, and ended with his or her
6 leaving to return to school at the close of, his or her vacation
7 period, or whether the claimant left the employer's employ to
8 accompany his or her spouse *or domestic partner to a place or to*
9 ~~join her or him or her~~ at a place from which it is impractical to
10 commute to the employment, *and* to which a transfer of the
11 claimant by the employer is not available or whether the claimant's
12 discharge or quit from his or her most recent employer was the
13 result of an irresistible compulsion to use or consume intoxicants
14 including alcoholic beverages, shall be entitled to a ruling as
15 prescribed by this section. The period during which the employer
16 may submit these facts may be extended by the director for good
17 cause.

18 (2) For purposes of this section, "spouse" includes a person to
19 whom marriage is imminent, *and "domestic partner" includes a*
20 *person to whom a domestic partnership, as described in Section*
21 *297 of the Family Code, is imminent.*

22 (b) The department shall consider the facts together with any
23 information in its possession. If the employer is entitled to a
24 determination pursuant to Section 4655, the department shall
25 promptly issue to the employer its ruling as to the cause of the
26 termination of the individual's most recent employment. The
27 employer may appeal from a ruling or reconsidered ruling to an
28 administrative law judge within 20 days after mailing or personal
29 service of notice of the ruling or reconsidered ruling. The 20-day
30 period may be extended for good cause, which shall include, but
31 not be limited to, mistake, inadvertence, surprise, or excusable
32 neglect. The director shall be an interested party to any appeal.
33 The department may for good cause reconsider any ruling or
34 reconsidered ruling within either five days after the date an appeal
35 to an administrative law judge is filed or, if no appeal is filed,
36 within 20 days after mailing or personal service of notice of the
37 ruling or reconsidered ruling, except that any ruling or reconsidered
38 ruling that relates to a determination that is reconsidered pursuant
39 to subdivision (a) of Section 1332 may also be reconsidered by

1 the department within the time provided for reconsideration of that
2 determination.

3 (c) For purposes of this section only, if the claimant voluntarily
4 leaves the employer's employ without notification to the employer
5 of the reasons therefor, and if the employer submits all of the facts
6 within its possession concerning the leaving within the applicable
7 time period referred to in this section, the leaving shall be presumed
8 to be without good cause.

9 (d) An individual whose employment is terminated under the
10 compulsory retirement provisions of a collective-bargaining
11 agreement to which the employer is a party shall not be deemed
12 to have voluntarily left his or her employment without good cause.

13 (e) Rulings under this section shall have the effect prescribed
14 by Section 1032.